

BRETT COLLINS, Coordinator, Justice Action,

EMMA GAMBINO, Assistant Coordinator, Justice Action,

GARRY PAGE, Private Citizen, and

JOHN KILLICK, Private Citizen, affirmed and examined:

ROBERT VEEN, Private Citizen, sworn and examined:

CHAIR: Before we commence I remind witnesses and everyone here today that the Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of Parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. If at any stage someone wishes to ask that the Committee consider going in camera to discuss anything that could be confidential please do so before discussing any of that information.

Mr COLLINS: That will not be necessary, Madam Chair.

CHAIR: Would you like to make an opening statement before we commence with questions?

Mr COLLINS: Yes, please, Madam Chair. If I could first introduce our presentation for maybe two or three minutes and then if each of the ex-prisoner witnesses could speak for two minutes to present and after that we will take questions, if that is acceptable.

CHAIR: That will be fine for the Committee.

Mr COLLINS: First of all, I acknowledge the traditional owners of the land and also thank the Committee for the opportunity to present on behalf of those people who are affected by the laws, the convicts themselves. We are proud to speak as the convicts. I will introduce you rapidly to Robert Veen, who is an Aboriginal person who served 42 years in jail in two consecutive life sentences. Mr Garry Page, described as an aggressive psychopath, served a life sentence after voluntarily submitting to brain surgery. You will see he has two indentations on his head where he voluntarily submitted to brain surgery before he then received a life sentence. Mr John Killick spent many decades in the highest security prisons since the 1960s in four States with lifers before and after his helicopter escape from Silverwater prison. I am an ex-prisoner. I spent the 1970s in prison, 10 years of a 17-year sentence, and have been working since that time. It was then about at the time of the Nagle royal commission. I have been serving the prisoner community since that period.

The first thing we would like to say is sorry—sorry for the harm that the convicts have done and for the prisoners in the jails and personally for the harm that we have done to victims. We have strived to make amends and we have learnt new skills, and we acknowledge the harm that we have done in the past. We would also like to say thanks—thanks to the victims because the victims groups have shown a lack of vindictiveness in their presentation before the Committee. We acknowledge that and we think that is remarkable and refreshing. We see it as an opportunity to find some common ground not just around the lifers committee but also around the increasing use of imprisonment despite the chaos in the prison system at the moment.

This is also in the face of the reduced victims compensation payments since 2013. We all know that the victims compensation payments were moved from \$50,000 to \$15,000, so victims certainly have not had it easy. You will find at the back of our document that we presented and that I think has been distributed a number of recommendations at page 8. The recommendations really focus on trying to bring some changes in that are real, because we are concerned, as the prisoner movement, that we are used in this process. The media plays with us and also plays with the general community. Here is a great example for that to be seen. So we are looking for privacy as one of our key recommendations. That is privacy both for the victims and for ourselves during the period of our sentence.

We also bring a proposal. It is the proposal which was given to the Committee on Friday and it is a joint proposal between the victims group called Enough is Enough and ourselves. It is called the online counselling proposal, which was delivered to Corrective Services NSW in July 2014, last year. We have also given to the Committee an email string that indicates the negotiations that occurred after that meeting and the

attempts that we and Enough is Enough have made to try to bring about some reality for change for prisoners and also for victims to offer online services, which is an efficient and useful way of bringing reconciliation and learning to people inside prisons and giving victims the chance to be involved with the prisoner during the period of their sentence from the time of the beginning of the sentence.

The proposal has been developed again since that stage, but we have given this to you to indicate what was proposed back in July of last year. What we ask is that we should get support from the Committee for support for online services as a cheap, effective way of delivering rehabilitation services in the prisons from the time at which the prisoner is first arrested. That is a very carefully drafted and acknowledged worldwide statement for online counselling. We also propose that we look for support from the Committee pretty much to install at no cost the internet in prisons. With the assistance of the union movement we have been told we will get it. Then we will supply the services, working with Enough is Enough, for online counselling. On that basis I would like to introduce the other people—first, Mr John Killick.

Mr KILLICK: I think I could be of assistance to the Committee because I have spent quite a period of time in prison in four States, including the worst ones—Boggo Road, Pentridge, Yatala and a lot here, Goulburn et cetera. I learned a lot about the different classification systems the different States have—for instance, Queensland do not have medium security anymore; they only have minimum and maximum. I saw the effect on lifers that different classifications can have. I remember in 1966, when I was at Pentridge, they used to hand out very severe sentences—this guy got 40 years. His name was Major and he killed his mother. He walked in and said, "Well, when I walk out I will walk straight across the street and get my pension". He knew he would do 40 years and he was 25. His attitude was that he accepted what he was going to do and knew he would get out, so he took it from there. For another guy the judge had recommended that he never be released. He was troublesome throughout the whole system and ended up shooting a prison officer—he did not kill him but shot him—and was always trying to escape. I have seen what can happen to people in different States when they have no hope; I have seen the effect that can have on people.

I am a perfect example: I have said often that I give credit to the New South Wales system. A lot of people are put through the Department of Corrective Services' Violence Prevention Program. Not enough people get through it, but it is a very intense program working one on one with psychs and other prisoners. Mr Veen did it with me. The thing is it is effective and it makes you realise—people like me who did not realise it—that you have victims. I always thought that I did not have victims because I only robbed a bank because I always bluffed and even the judge said that. But you realise you have 100 victims when you rob a bank; not just the people in there but their families. Some people react okay but for other people it could ruin their lives. I have accepted these things and I hope I can answer any questions you would like to put to me.

Mr VEEN: I have served 42 years in jail on separate occasions. Like Mr Killick said about victim empathy, I have learned about that. You do not know how many people you hurt, especially with my crime. The other things I would like to talk about are the problems in jail with the lifers and long-term inmates and getting out, being set free. It should be a month to be notified and then work on the basis of talking about what progress you want to do outside and everything else like that. Especially with me, after doing 32 years on this sentence, I had no clue, no nothing whatsoever. I was sort of lost and just chucked out of the prison.

Mr PAGE: I have served a life sentence. I would like to congratulate my three friends here; we have known each other since 1977 and we used to play squash together. When the judge sentenced me to the maximum sentence at the Supreme Court on 15 December 1976 he said words to this effect: "After what I have learned about this man's criminal and mental history, I would not want it on my conscience that I was responsible for letting him loose on the streets. So I see no alternative but to sentence him to life imprisonment and then let the jail authorities have that worry, which is repeated detention." One of the jail psychiatrists, Dr Arno Reid, in a Supreme Court document at paragraph 24 said: "He is described as a confirmed psychopath most unlikely to respond to any available type of psychiatric treatment. I fear, therefore, that if he is released he will commit similar offences again."

Paragraph 76 says: "I cannot believe the change in this man since I saw him last"—this is after 11 years in maximum security. "He has embraced the philosophies of Alcoholics Anonymous and with his determination to remain sober I think we should give him a chance." I spent many, many years in prison thinking I was never going to get out. I used to say to meself, "Listen to these AA men coming in here carrying their message. Listen to these weirdos coming in here and telling me their problems. I am never getting out." That is how I felt but I got out and it is wonderful to be with friends I have known for 40 years.

CHAIR: We have limited time so to ensure all members have an equal opportunity to ask questions we will monitor timing and commence with questions from the Opposition.

The Hon. DANIEL MOOKHEY: I thank you all for your appearance today. You make the point in your submission that your view is the classification system essentially has two purposes: one is obviously control during the life of the prisoner, and two is that exercising the control function affects a prisoner's expectation of release. It is essentially a proxy signal for whether or not a prisoner is entitled to a pathway towards release. Is that your point?

Mr COLLINS: Yes, it is to a large extent. You work hard and you also expect every 12 months to be reassessed and to have your classification reviewed.

The Hon. DANIEL MOOKHEY: So it is a mark of progress?

Mr COLLINS: It is; that is right. It works well because it means that if you breach the understanding you have with the classification committee, or SORC, during those 12 months then your management plan effectively is not effective so you can have your progress reversed.

The Hon. DANIEL MOOKHEY: Is it your view that progress up and down the classification system affects a prisoner's willingness to participate in rehabilitation programs?

Mr COLLINS: Absolutely, there is no question about that. For example, the violent offenders treatment program we heard about earlier is one of the programs that is required before you are released and the parole board will allow you out. That is one of the reasons that we suggest that the online services program is much better. For example, with the sex offenders program, they do not allow you to do the program until the last stages almost before you are released. So if you are serving a long sentence it may be 10 years before you learn any new skills about behaviour. When we questioned Corrective Services about why they adopted that approach they said, "You might do the program early but afterwards you can revert to bad behaviour because we cannot maintain the program during the whole period of the sentence". So that is why the online services program is really good—because from the time you first come in you can set up an arrangement with a service outside. That can be maintained through the period of your sentence, when you are dealing with your problems; and then afterwards you can maintain it when you are released.

The Hon. DANIEL MOOKHEY: Insofar as the classification system is run with objectivity and integrity, is it your view that that is more likely to encourage prisoners to, firstly, comply with prison authority and, secondly, accept their wrongdoing and the consequences of their actions towards victims and engage in the aspect of contrition, which we also recognise is an important part of our justice system?

Mr COLLINS: Yes, to an extent. To be quite direct and real about this, quite often we are not happy with the decisions of the classification committees. Quite often they are quite perfunctory. So quite often the reports prepared beforehand are prepared really without the input of the prisoner. Maybe my colleagues here have some comments to make about their experience with classification committees.

Mr KILLICK: A lot of people are recommended for certain classifications by boards such as the Serious Offenders Review Council. But it eventually comes down to one person, and with serious offenders the commissioner quite often will override boards such as SORC. They do feel frustrated in situations like that. Overall I have seen that people who are given access to programs and who are able to get along and do them are quite successful. Most of them come through pretty well, if they are given that opportunity.

The Hon. ADAM SEARLE: Mr Collins, what changes to the classification or reclassification process do you recommend?

Mr COLLINS: I would recommend there be a stated document before you begin classification so that you actually know the options that are available to you. You need to have a management plan which is prepared at the time that you are first arrested. It could even be done at the time when you are remand. You can then start to prepare yourself to deal with your problems, and that management plan then should be continued right through until parole. It should be documented and you should actually see it. You should be able to feed into it and to challenge it. The benefit of that is that it is no longer arbitrary. So when it comes to the time of parole they cannot say to you that you did not meet or that you attempted to meet what the parole board expected and

so afterwards feel disappointed. It not being arbitrary is really an essential part of this—to have things presented in a standard sort of way I think is essential.

The Hon. ADAM SEARLE: What do you see as the appropriate role for victims of crime in that process?

Mr COLLINS: I think the involvement of victims in that area is not helpful at all. I think the process really is one which is internal. Otherwise you really have what can quite often be an antagonistic response from the victim. In some situations the victims are quite happy to be involved in a positive way with the offender, because quite often the victim and the offender have some relationship with one another. So if there is an opportunity to do that then that should be grasped. In preparation for this inquiry, we made contact with the 12 prisoners who are of particular interest to the life sentence inquiry. Nine of those 12 have come back to us and said that they actually did not have the chance to make their apologies and to say sorry. They said, "Surely the victims understood that we were actually sorry about what we did. We feel badly about the act we did." But it was not openly stated.

There was no opportunity to have that form of restorative justice. So if the victim is ready for that then I think it is an entirely good thing that the offender be given the opportunity. We all acknowledge that we have done harm, and I think it is important that we can do that without feeling a sense of continual shame. We should be able to also move on and be exonerated after the end of our sentences.

The Hon. ADAM SEARLE: Should the commissioner retain the capacity to depart from SORC decisions?

Mr COLLINS: I think the commissioner should have a fair amount of power in these situations, and then there is obviously the legal decision. But it is another matter entirely for the Minister to have the power to override the commissioner. That is really problematic. The concern we have there is that, in this very situation with Garforth, we had immense pressure from the media with 30,000 signatories on a petition in 24 hours. It shocked everyone. Obviously it had been carefully created. It created immense tension for the Minister. The Minister was in a position to actually dictate to the commissioner, and did so. We think that should not have occurred.

The victim and the offender should have the legal right to privacy. So if the media were to report on something that had happened inside the jail then that would be seen as a breach of the law—in the same way as, for example, breaching a Family Court hearing or breaching a Children's Court hearing. There is an entitlement to privacy and the delicacy of the situation is not dissimilar to that which applies to those other courts. The victim's right, and those of the offender, to privacy after the sentence has been completed should be enforced by law.

Mr DAVID SHOEBRIDGE: I thank you all for coming here to give evidence today. My first question is to Mr Veen, Mr Killick or Mr Page. In your time in prison, were you part of a review of your classification where you engaged with the review and had a recommendation from either the Serious Offenders Review Board or the Serious Offenders Review Council [SORC], and that recommendation was for the lowering of a classification or some other beneficial outcome, which was then be vetoed by the commissioner?

Mr KILLICK: That describes perfectly the example of what happened to me. My release date was 3 March 2013, after a 14-year non-parole period. SORC recommended parole, and also the intention to grant parole by the parole authority, but then the commissioner stepped forward and opposed it. He knocked it back and I had to do another 12 months, because he wanted me to do external leave. He then said, "I can't let you out until you do weekend leave," but he would not give me weekend leave because I faced extradition to Queensland. So I found I was in a terrible position where I could not get parole because I could not get weekend leave and I could not get weekend leave because I had an extradition order.

Mr DAVID SHOEBRIDGE: So it was a catch-22 situation?

Mr KILLICK: Yes, eventually the parole authority said, "Either he needs to get some external leave or we're going to let him out." So that is what happened. But it was a pretty dicey thing to happen.

Mr DAVID SHOEBRIDGE: Mr Page, did you see examples of this?

Mr PAGE: I have a good one—my own situation. When I was serving a life sentence term you had to have a seven-year review. I never got a seven-year review because of politics. I complained to the Ombudsman Dr Brian Jinks, the Deputy Ombudsman, came to see me on several occasions. He sent me a draft report—an interim report. It said words to the effect that in matters as important as prisoner classification not only should justice be done but also it should be seen to be done. He said, "I am of the view that there was some procedural injustice done to Mr Page."

I made a mistake—I went to Graham Gambie at the *Sun Herald*. He wrote an article entitled "Now it's life in jail on the 'never never' plan", which quoted a "prisoner's bizarre claim" that if money can be paid to get out of prison then also someone can pay to keep you in. That happened to me. I know I cannot mention any names so I will not. The Ombudsman came back and saw me. He said, "You're not going to get that final report tabled in Parliament. We're going to start another draft report on you next year." It took more time, and I had a psychiatric history in there. It was not a nice situation. They just kept sweeping it under the rug and putting me on the bottom of the pile all the time.

Mr DAVID SHOEBRIDGE: How does that impact itself in terms of prisoner behaviour when there is an objective process gone through which is then overturned by a subjective decision?

Mr KILLICK: It makes you disillusioned, and you get depressed. My son and his wife had actually come home from China, and then they had to go back. He had actually thrown in his job. What I have always felt, and most people I think would logically agree, particularly with serious offenders when you have an organisation such as SORC which is dealing with you for 15 or 20 years they get to know you. They know everything about you. They have all the reports. Then somebody like the commissioner comes along, and I know he has a lot of pressure on him from the media and everybody else, and overrides a lot of reasonable people. It is one arbitrary decision overriding all these people who have dealt with you for 15 to 20 years. That can disillusion you.

Mr DAVID SHOEBRIDGE: Have you seen that have an impact on other inmates and on their behaviour?

Mr KILLICK: I have.

Mr DAVID SHOEBRIDGE: Can you give an example?

Mr KILLICK: Well, there are people now that are waiting to get out and they can't get out because the same thing is happening: they have been recommended to get out and they are not, they are being held back for external leave and they can't get the external leave. Mr Veen is an example, he was 12 years past his parole period and it is very frustrating.

Mr DAVID SHOEBRIDGE: I understand it is frustrating but does that impact on the way the prisons run? Does it make it more difficult to control inmates in those circumstances? Does it have an impact?

Mr KILLICK: I think self-preservation—if a person is rehabilitated to the extent he is ready to step out into society he has to be able to accept it and prove he can handle setbacks, if he can't handle setbacks he is not ready to go out. That is a gauge, the way you handle it and accept it. Not everybody handles these things well. This is where it is difficult for people making the decisions to make the right decision. Because my experience in the old days was when you got recommendations they came through. You worked towards something, you knew you were going to get it and you worked towards it and you got it. It always happened but now it can be a lottery. It is causing a lot of stress in the system.

Mr COLLINS: To be fair, I earlier said that I felt the commissioner should have more power. Listening to that and decades and decades of work in the area, of course people are entitled to have something that had been agreed to by the organisation—if it is the Serious Offenders Review Council [SORC]—and have an expectation for that to be carried through. What Mr Killick said a moment ago is what a lot of prisoners are told: you have to cop what you are given and if you cannot cop it how can you put up with other frustrations? You can almost expect to be treated unfairly and that expectation you have to build in to the way you are dealt your rights as a prisoner. They are almost not there.

Mr KILLICK: It is why these programs are important: like violence prevention, anger management, even gambling.

Mr DAVID SHOEBRIDGE: You almost need it to deal with the prison system?

Mr KILLICK: That's right. Some people cannot contain their anger and they need these programs.

Mr COLLINS: The program is only running for a short time as well, that is the other thing. It normally runs for a few hours a week.

Mr KILLICK: A place like the violent offenders therapeutic program [VATP] is professional and you are put in a wing. We were put in a wing which is 30 prisoners doing it and we didn't associate with the other prisoners and we worked with the psyches and officers and everybody was good at it and the majority, 80 per cent, were released into the community.

CHAIR: Time has expired for questions. What was the acronym?

Mr KILLICK: Violent offender's therapeutic program.

The Hon. DAVID CLARKE: Mr Collins, in your conclusion to your report, page 30, you state:

Whether a prisoner is serving a life sentence or not every prisoner is entitled to the prospect of release.

Are you saying that you can think of no cases where a life sentence should actually mean a life sentence in practice, without the prospect of release?

Mr COLLINS: Absolutely. Mr Clarke, in my experience, and I have travelled internationally as a criminologist as well, and speaking to people for example a psychiatrist who is in charge of the highest security psychiatric hospital in the United Kingdom and he said, "There are no bad people, I can actually communicate with everyone." That is my experience as well. The Justice Action [JA] mentoring presentation where you have somebody beside you who has a similar experience to your own and wants you to survive and gives you the benefit of their friendship and support, that is a wonderful thing. You cannot ask for more than that. It may not be the parole officer, in fact it is often not the parole officer, somebody beside the person as a mentor and friend.

The Hon. DAVID CLARKE: You have spoken about victim impact statements, do you believe they should be abolished?

Mr COLLINS: I think it is entirely fair that the victims say the effect it has on them. Quite often an offender never hears, they only see the evidence presented in court as part of proving the case. To hear in a personal way and to understand it themselves and later at some stage even to try to make amends in some sort of way, that is a useful process and we think that is entirely good.

The Hon. DAVID CLARKE: You say on page five:

The notion of an eye for an eye represents a restraint on revenge or retaliation.

Do you believe that the punishment should fit the crime?

Mr COLLINS: I think crime is a unique thing, it depends on motive and a whole range of other things as well. Of course how can you look at a man like Bobby Veen who is a member of the stolen generation, a person who is a child prostitute at the age of 20, how can you talk about his double life sentence as not having some shame for all of us? How do you behave in the face of that?

The Hon. DAVID CLARKE: In your conclusion you say:

Once the trial is over and the offender has been sentenced the offender should have the right to serve the court's sentence without interference from the media, the victim or politicians.

Do you mean that there should be a court prohibition on referring to the offender and his crimes? There should be a court prohibition on Ivan Milat, for instance?

Mr COLLINS: Ivan Milat is a good case in point. He at one stage had swallowed some razor blades that had opened up in his stomach. Someone got access to the x-ray of the stomach and presented it on the front

page of the *Sunday Herald* showing his stomach. How demeaning to us as a community to feel there is a benefit to see what Ivan Milat has done?

The Hon. DAVID CLARKE: Total prohibition on any reference to Ivan Milat?

Mr COLLINS: The entitlement to privacy in the same way as the entitlement to privacy in a family court or a Children's Court is able to be exploited and such a stench di varia. When politicians cannot resist the pressure of a 30,000 person petition, to then break the law and not to do it in accordance with what the victims' want. The victims do not support the action of the Minister. That is the thing we should protect ourselves against. If it means privacy, yes.

CHAIR: I have a question for Mr Killick. You mentioned you served in a number of prisons around Australia

Mr KILLICK: Yes.

CHAIR: And have experienced different levels of classifications at the various institutions. You mentioned Queensland has two classifications, maximum and minimum: do you think the New South Wales system is complex or it works very well?

Mr KILLICK: I think the overcrowding is a problem with New South Wales. When they do a case management plan if they can put it into effect it works.

CHAIR: I am more interested in the classification levels. I understand that Queensland has two whereas New South Wales has three and various other levels?

Mr KILLICK: I went up there for six months last year and it is a mess up there because you only have maximum and minimum and so many people are in between. You will find that most of them will stay in maximum. So it does not work.

Mr DAVID SHOEBRIDGE: You think there is benefit in having the grades?

Mr KILLICK: Definitely.

Mr DAVID SHOEBRIDGE: Even if complex?

Mr KILLICK: It's complex but it didn't used to be, medium was medium and medium security was different to maximum, but they are encroaching into each other now.

CHAIR: Some of the evidence we had this morning is that there is no difference between A and B.

Mr KILLICK: I would say that is simply because of the overcrowding. They have nowhere to put them.

Mr COLLINS: We really talk about social interactions as well between maximum and medium security.

CHAIR: There is a slight difference between the two?

Mr COLLINS: I was talking more in terms of community interactions and the prisoner community itself. That is significant. If you are able to be with someone with whom you have a supportive relationship, that is a good thing and to build up some skills is a good thing. The idea of cutting out cross security of compartments is an important one. At one stage you could move around the jail freely, these days it is not the case; people are locked down to 30 and 60 people pods. The ability to transfer and move and use the strength of the prisoner community to support each other and support itself is important. Justice Action, we come here to present on behalf of prisoners and convicts, but when it comes in using us as part of the support group for after care or management inside, we do not get access. The new Minister, David Elliott, will not even talk with us, he won't have a meeting with us.

For the past 30 years we have always had a meeting with the Minister within a few days of his being appointed. In this case the Minister has not even spoken with us. We want to offer goodwill to ensure that people are not returned to jail; we want them out and supported. We do not want crime. We are the community most affected. We are working with Enough is Enough on a serious online service proposal capable of being carried out, but we have had nothing.

CHAIR: Unfortunately the time for questions has expired. Any additional questions members might have will be sent to you by the Committee secretariat and you will have 21 days in which to respond. Thank you for appearing today and giving evidence.

(The witnesses withdrew.)